



WEB COPY



W.P.No.2310 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.2310 of 2023

And

W.M.P.No.2377 of 2023

P.Elayaraja

... Petitioner

Vs.

1.The Additional District Magistrate cum District Revenue Officer,
District Revenue Office,
Krishnagiri,
Krishnagiri District.

2.The Inspector of Police,
Civil Supply C.I.D.
Krishnagiri,
Krishnagiri District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the order issued by the first respondent herein dated 24.12.2022 made in Na.Ka.No.21994/2021/F6 and quash the same and further direct the respondents to release the petitioner's vehicle TATA Mini Lorry bearing Registration No.TN-31-CD-1144, Chassis No.MAT785005L7K07137 and Engine No.3LNGD06KZX506128 seized by the second respondent herein.



W.P.No.2310 of 2023

For Petitioner : Mr.P.Kannan

For Respondents : Mr.U.Baranidharan for R1
Additional Government Pleader
Mr.L.Baskaran for R2
Government Advocate (Crl. Side)

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records of the order issued by the first respondent dated 24.12.2022 made in Na.Ka.No.21994/2021/F6 and quash the same and further direct the respondents to release the petitioner's vehicle TATA Mini Lorry bearing Registration No.TN-31-CD-1144, Chassis No.MAT785005L7K07137 and Engine No.3LNGD06KZX506128 seized by the second respondent.

2.The learned counsel appearing for the petitioner would submit that the petitioner is the owner of the TATA Mini Lorry bearing Registration No.TN-31-CD-1144 and the said vehicle was stolen by unknown person on 20.03.2022. The petitioner immediately lodged complaint before the Kadampuliyur Police Station and the same was assigned CSR No.457 of 2022 dated 02.05.2022. Whiles, the first respondent passed the impugned order.



W.P.No.2310 of 2023

WEB COPY

3.The learned counsel appearing for the petitioner would further submit that a case in Crime No.106 of 2022 was registered for the offence under Sections 6(4) of the Tamil Nadu Scheduled Commodities [RDCS] Order, 1982 and Section 7(1)(a)(ii) of the Essential Commodities Act, 1955 was registered by the Krishnagiri Police Station on 05.07.2022 and in connection with the same, the petitioner's vehicle was seized on the allegation that the vehicle was involved in illegal transportation of PDS rice. Hence, the petitioner filed W.P.No.19173 of 2022 and this Court vide order dated 27.07.2022 disposed of the said writ petition by directing the petitioner to file application before the first respondent and issued direction to the first respondent to consider the same and to pass orders, pursuant to which, the first respondent has passed the impugned order.

4.The learned counsel appearing for the petitioner would further submit that as per Section 3(2)(j)(i) & (ii) read with Section 7 of the Essential Commodities Act, the first respondent have power only to confiscate the vehicle and not to impose penalty for release of the vehicle and hence imposing penalty of Rs.7 Lakhs for the vehicle worth Rs.9 Lakhs is not sustainable one.



W.P.No.2310 of 2023

WEB COPY

5.The learned counsel appearing for the petitioner would further submit that the seized vehicle is now being kept in open place and due to exposure of sun and rain and the vagaries of nature, the vehicle will lose its value and may, ultimately become a wreck and worthless and further submitted that the petitioner, without prejudice to his rights and contentions, is ready to deposit a sum of Rs.2,50,000/- before the first respondent and on such deposit being made, the first respondent may be directed to release the vehicle.

6.Heard the submissions made by the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the first respondent and the learned Government Advocate appearing for the second respondent.

7.Admittedly, the petitioner made complaint before the Kadampuliyur Police Station as if his vehicle was stolen by unknown person and the same has been assigned CSR No.457 of 2022 dated 02.05.2022. Subsequently, the case in Crime No.106 of 2022 was registered by the Krishnagiri Police Station on 05.07.2022 and the petitioner's vehicle was seized on the premise that it was allegedly



W.P.No.2310 of 2023

involved in illegal transportation of PDS rice.

WEB COPY

8.This Court perused the Essential Commodities Act and as per the Act the first respondent have power to confiscate the vehicle in terms of Section 3(2)(j)(i) & (ii) and Section 7 (b) & (c) of the Essential Commodities Act and there is also one provision available under Section 6-A (c) of the Essential Commodities Act and have no power to impose penalty for release of the vehicle. In the absence of any power, the first respondent imposing penalty for release of the vehicle is not sustainable one. Hence, the impugned order is liable to be set aside.

9.Further, keeping the vehicle idle will no longer serve any purpose. Hence, this Court issues direction to release the petitioner's vehicle namely, TATA Mini Lorry bearing Registration No.TN-31-CD-1144, on the following conditions:

(i)The petitioner, without prejudice to his rights and contentions shall deposit a sum of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand Only) before the first respondent within a period of two weeks from the date of receipt of a copy of this order;

(ii)The petitioner shall give an unconditional undertaking to the



W.P.No.2310 of 2023

first respondent that he shall not alienate or encumber the vehicle in question without permission of the jurisdictional Magistrate till the completion of the confiscation proceedings;

(iii)The petitioner shall not change the colour and scheme of the vehicle;

(iv)The petitioner shall not use the vehicle for any illegal activities;

(v)Before releasing the vehicle, the Police Authority shall take photographs of the vehicle at the cost of the petitioner;

(vi)The petitioner shall produce all xerox copies of the documents pertaining to the ownership of the seized vehicle to the first respondent;

(vii)As and when the respondents call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and he shall cooperate with the enquiry to be conducted by the respondents.

10.Upon completion of the above mentioned formalities (i) to (vi), the second respondent shall release the petitioner's vehicle namely, TATA Mini Lorry bearing Registration No.TN-31-CD-1144 to the petitioner forthwith without any delay. If the undertaking given by the petitioner is breached, the petitioner will not be entitled to interim



W.P.No.2310 of 2023

release of the vehicle in future. As far as confiscation proceedings initiated against the seized vehicle is concerned, the same can go on without any interference.

11.The writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

09.09.2024

pri

Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

- 1.The Additional District Magistrate cum District Revenue Officer,
District Revenue Office,
Krishnagiri,
Krishnagiri District.
- 2.The Inspector of Police,
Civil Supply C.I.D.
Krishnagiri,
Krishnagiri District.



WEB COPY



W.P.No.2310 of 2023

M.DHANDAPANI,J.
pri

W.P.No.2310 of 2023
And
W.M.P.No.2377 of 2023

09.09.2024